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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,788	02/11/2004	Gero Dittman	CH920020039US1	3251
7590 08/02/2007				
LOUIS P. HERZBERG		EXAMINER		
Intellectual Property Law Dept.		ENG, DAVID Y		
IBM Corporation				
P.O. Box 218		ART UNIT PAPER NUMBER		
Yorktown Heights, NY 10598		2155		
		MAIL DATE DELIVERY MODE		
		08/02/2007 PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,788

Applicant(s)

DITTMAN, GERO

Examiner

DAVID Y. ENG

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.84(o) because they fail to show legends and flow charts are not filled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 10-12, 14, 15 and 18-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim combination is directed to computer program code which is not one of statutory subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 10-12, 14, 15 and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, "the processing means" in line 15 has no antecedent basis. Further, the interface and the internal memory have no functional relationship with any other components.

Claim 10, an article of manufacture claim, is improperly dependent on claims 1 and 6 which are directed to a packet processing device.

Claims 11 and 12, which are respectively directed to program storage device and computer program product, are improperly dependent on claims 6 and 1 which are directed to a packet processing device.

Claims 14-15 and 18-19 have similar defect set forth above.

With respect to claim 17, a claim could not be dependent on itself.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chi (USP 5,473,764) in view of either Saksena (USP 6,023,726) or Woods et al. (USP 5,956,039).

Chi teaches:

Claim 1, 2, 3, 4,

A data packet processing device for processing data packets received from a network, including:

a processor (CPU 10, Figure 1 in Chi) for processing data packets;

an interface (the connection 20 shown in Figure 1) operable for transmitting data packets to and from an external memory;

a scheduler (control 24) for assigning priority information to received data packets, the priority information determining an order of data packets to be processed;

an internal memory (see the description of cache throughout the Chi patent, column 1 lines 35-50 for example) for storing data packets;

a memory manager (control 24) operable to cause storing data packets in the external memory (main memory 12) and to provide data packets in the internal memory for being processed in the processing means (column 4, lines 4-15; wherein the

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memory manger provides data packets in the internal memory for being processed by the processor subject to the priority information assigned to the data packets (if instructions to be executed next is not found in the cache, the instruction to be executed next is fetched from the main memory to the cache, column 3, lines 4-12 and column 4 lines 50-60).

The only difference is that it is not clear whether the system of Chi is operated in network environment. Network communication is well known in the art. See the abstract, and claims 5 and 9 in Saksena. Saksena teaches cache pre-fetch in network environment. From the teaching of Saksena, it would have been obvious to a person of ordinary skill in the art to incorporate the Chi system in a network environment such that it is able to communicate in network environment. Note that Applicants' system is for caching between external and internal memories and not between network.

Woods et al also teach cache pre-fetch in network environment. See the abstract. From the teaching of Woods et al, it would have been obvious to a person of ordinary skill in the art to incorporate the Chi system in a network environment such that it is able to communicate in network environment. Note that Applicants' system is for caching between external and internal memories and not between network.

Claim 5

It is well known that data items are transferred in blocks between a cache and the main memory. It is further well known the instructions are executed and stored in sequence.

Claims 6-19

Claims 6-19 have similar limitations as claims 1-5 and therefore are rejected for the same reasons.

Cited Prior Art

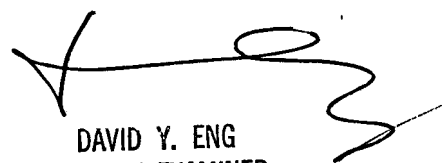
Headrick is cited to shown a plurality of priority queues for transmitting data items with a network.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DAVID Y. ENG
PRIMARY EXAMINER